

2024 Final Rules for Exchanges

American Academy of Actuaries
Health Practice Council

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Academy Webinar



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Presenters

Moderator

Cori Uccello, MAAA, FSA, FCA, MPP
Senior Health Fellow, American Academy of Actuaries

Presenters

Representatives of the CMS Center for Consumer Information and Insurance Oversight (CCIIO)

Agenda

Discussion of numerous provisions of the proposed and final rules applying to health insurance in the individual and small group markets in 2024, including:

- Risk adjustment
- Non-standardized plans and meaningful difference standards
- Automatic enrollment hierarchy for cost-sharing reduction (CSR)-eligible enrollees
- Special enrollment period for loss of a significant provider
- Network adequacy reviews
- Network adequacy—provider appointment wait times
- Actuarial value calculator
- CSR premium loads

Risk Adjustment

Data years used in risk adjustment model calibration

- Proposed rule: 2018, 2019, and 2020 enrollee EDGE data, except for adult models' age-gender coefficients, which would use only 2018 and 2019 EDGE data
- HPC committees' comment: Concerns with including 2020 plan year data given the inconsistent treatment of adult age-gender coefficients and other coefficients
- Final rule:

Risk Adjustment (cont.)

CSR adjustment factors

- Proposed rule: Maintain the current CSR adjustment factors
- HPC committees' comment: Encourage CMS to evaluate CSR adjustment factors in light of absence of federal funding for CSR subsidies and lower-than-anticipated induced utilization among CSR enrollees
- Final rule:

Risk Adjustment (cont.)

State flexibility to request reduction in risk adjustment transfers

- Proposed rule: Eliminate flexibility beginning in 2025. Request feedback on Alabama's request for 50% reduction in transfers for 2024.
- HPC committees' comment: States have flexibility to develop their own risk adjustment model if federal model is not appropriate for their market. Regarding Alabama's request, it may be appropriate to get feedback from insurers regarding the impact on premiums; reducing transfers can increase premiums for insurers that would have expected to receive higher transfers.
- Final rule:

Risk Adjustment (cont.)

Extraction of External Data Gathering Environment (EDGE) data elements

- Proposed rule: Extract plan ID and rating area elements from certain years prior to 2021. Beginning in 2023, collect new Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) indicator.
- HPC committees' comment: Support HHS approach of phasing in reporting requirements for QSEHRA indicator, as it may be challenging for issuers to capture this information for years already in progress.
- Final rule:

Risk Adjustment (cont.)

Use of permanent conditions list and non-EDGE claims

- Request for comment: Whether to discontinue use of lifelong permanent conditions on non-EDGE claims starting with 2022 benefit year of RADV.
- HPC committees' comment: Using EDGE would be more closely aligned with the sources used in claims validation. Any changes in RADV should be prospective only.

HCC for gender dysphoria

- Request for comment: Whether to add new payment hierarchical condition category (HCC) for gender dysphoria.
- HPC committees' comment: Any inclusion would need to be based on appropriate data. Unclear whether condition is consistently coded by practitioners or reported by issuers.

Risk Adjustment (cont.)

Overview of additional risk adjustment provisions in final rule

Non-Standardized Plans and Meaningful Difference Standards

Proposal

- For 2024+, issuers offering QHPs through marketplaces using the federal platform must offer CMS-designed standardized plans at every network type/metal level/service area they offer non-standardized plans
- Issuers can offer only up to two non-standardized plans per network type/metal level/service area
- Rather than limiting number of non-standardized plans, CMS could apply meaningful difference standards, requiring plans to have deductibles that differ by more than \$1,000

Non-Standardized Plans and Meaningful Difference Standards (cont.)

HPC Comments

- Although streamlining choices can avoid choice overload, arbitrary requirements that are overly restrictive can stifle issuer innovation and even reduce issuer participation if their ability to differentiate plan offerings is reduced
- Distinctions between network type (e.g., HMO, PPO) may be too broad, as within network types the networks can be narrow or broad
- Basing meaningful difference standards solely on deductible levels wouldn't account for other ways that plans can differ along dimensions important to consumers
- Better tools are also needed to help consumers evaluate their plan options

Non-Standardized Plans and Meaningful Difference Standards (cont.)

Overview of final provisions on standardized and
non-standardized plans

Automatic Re-Enrollment Hierarchy for CSR-Eligible Enrollees

Proposal:

- Allow marketplaces to modify automatic re-enrollment of CSR-eligible enrollees such that those who would have been re-enrolled in a bronze plan would be enrolled in silver plan with CSRs in the same product with the same or lower premium

HPC Committees' Comments:

- Consumers care about plan elements beyond premiums and should be made aware of the impact of any changes with sufficient time to affirmatively retain their plan or choose another plan
- Consumers underestimating their income may need to repay a portion of their premium tax credits

Final Rule:

Special Enrollment Period (SEP) for Loss of a Significant Provider

Request for Comment:

- What would be the implications for creating a SEP for consumers whose providers leave their network midyear?

HPC Committees' Comments:

- The SEP would benefit those wishing to retain their existing providers (and might be less healthy)
- Could result in those not having strong relationships with providers (and might be more healthy) to switch plans as well
- Significant take up of this SEP could create imbalances in the risk adjuster
- Could give providers more negotiating power when there is less provider competition and issuers more negotiating power when there is more provider competition

Network Adequacy Reviews (federally facilitated exchanges)

Proposal:

- Continue the network adequacy reviews that begin in 2023

HPC Committees' Comments:

- Local health markets vary, with wide differences in number and variety of health care providers
- Uniform standards could disproportionately impact rural populations and consumers in other historically underserved areas if issuers are unable to meet requirements in those areas
- Using county-specific time and distance parameters reflecting population size and density could mitigate these concerns

Final Rule:

Network Adequacy—Provider Wait Times (federally facilitated exchanges)

Proposal:

- 2023 Notice of Benefit and Payment Parameters (NBPP) and final letter to issuers outlined how meeting wait time standards would be implemented beginning in 2024
- 2024 proposed rules state issuers must work with their network providers to collect necessary data to assess whether provider network meets standards

HPC Committees' Comments:

- The data issuers must collect to demonstrate compliance hasn't been defined, raising compliance risk when signing the required attestation

Final Rule:

Actuarial Value (AV) Calculator

AV calculator continuance tables

HPC Committees' Comments:

- Using metal level continuance tables rather than the same standard population results in tables that reflect morbidity differences in the underlying populations and can create counterintuitive results (e.g., a gold AV > platinum AV for the same plan design)
- Appreciative of CMS efforts to investigate methods for creating a single continuance table for the AV calculator

Final AV Calculator:

Actuarial Value Calculator (cont.)

HPC Committees' Comments:

- Appreciate CMS efforts to analyze AV using EDGE claims data. Can CMS share their analyses?
- It is difficult to design a bronze plan with a design lean enough to meet the required AV; the premium growth measure used to establish maximum cost sharing grows more slowly than typical medical inflation
- Continued support for trimming high outlier claims in the continuance tables
- The discrete component continuance tables don't typically align with composite claims in the cumulative table. Differences in service mix at different utilization levels may drive AV differences relative to that implied by the model
- Supportive of the change to the copay accrual logic. Would encourage flexibility to allow user to choose whether and which copays accumulate toward the deductible

Final AV Calculator:

Cost-Sharing Reduction Premium Loads

HPC Committees' Comments:

- An actuarially sound load is one that ensures premiums are increased by an appropriate amount to replace the loss of federal reimbursement for CSR subsidies.
- If the factors and enrollment distribution used in developing the CSR load are not aligned with issuer experience, the resulting CSR load might not be actuarially sound.

Additional Resources

- Notice of Benefit and Payment Parameters for 2024 (proposed):
<https://www.cms.gov/files/document/cms-9899-p-patient-protection-nprm.pdf>
- Notice of Benefit and Payment Parameters for 2024 (final):
<https://www.cms.gov/files/document/cms-9899-f-patient-protection-final.pdf>
- 2024 Actuarial Value Calculator (final):
<https://www.cms.gov/files/document/copy-final-2024-av-calculator.xlsm>
- 2024 Actuarial Value Calculator Methodology (final):
<https://www.cms.gov/files/document/2024-av-calculator-methodology.pdf>
- Final letter to issuers on the federally-facilitated exchanges:
<https://www.cms.gov/files/document/2024-final-letter-issuers-508.pdf>

Additional Resources (cont.)

- Academy comment letter to CCIO on proposed NBPP:
[https://www.actuary.org/sites/default/files/2023-01/American Academy of Actuaries NBPP 2024 Comments 01.30.2023.pdf](https://www.actuary.org/sites/default/files/2023-01/American%20Academy%20of%20Actuaries%20NBPP%202024%20Comments%2001.30.2023.pdf)
- Academy comment letter on draft AV calculator:
[https://www.actuary.org/sites/default/files/2023-01/Academy AV Calculator Comments 01.12.23.pdf](https://www.actuary.org/sites/default/files/2023-01/Academy%20AV%20Calculator%20Comments%2001.12.23.pdf)
- Academy comment letter on cost-sharing reduction load factors:
[https://www.actuary.org/sites/default/files/2022-09/Academy CSR Load Letter 09.08.22.pdf](https://www.actuary.org/sites/default/files/2022-09/Academy%20CSR%20Load%20Letter%2009.08.22.pdf)

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